

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

TOMMY ELPS,
ADC #144914

PLAINTIFF

V.

5:13CV00235 SWW/JTR

ERIC B. PHARR, Correctional Officer,
East Arkansas Regional Unit, ADC, et al.

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Partial Disposition submitted by United States Magistrate Judge J. Thomas Ray and the filed objections. After carefully considering these documents and making a *de novo* review of the record in this case, the Court concludes that the Proposed Findings and Recommended Partial Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all but one respect. Along with his objections and statement of necessity, Plaintiff submitted a proposed amended complaint, *see* ECF No. 7, Attach., identifying Defendant Doe as "Correctional Officer Burke of the East Arkansas Regional Unit." Accordingly, the Court will instruct the Clerk of the Court to amend the docket to reflect that Defendant Doe (Burts or Burke) has been identified as Officer Burke, and the Court will order service on Defendant Burke.

IT IS THEREFORE ORDERED that:

1. Plaintiff may PROCEED with: (a) his § 1983 excessive force and pendent state law battery claim against Defendant Pharr; and (b) his § 1983 failure to protect and inadequate medical care claims against Defendants Walker and Burke.

2. Plaintiff's pendent state law negligence claims against Defendants Walker and Burke are DISMISSED, WITH PREJUDICE.

3. Plaintiff's Motion for Service (Doc. #3) is GRANTED as to Defendants Pharr, Walker, and Burke.

4. The Clerk is directed to prepare a summons for Defendants Pharr, Walker, and Burke, and the U.S. Marshal is directed to serve the summons, Complaint, and this Order on them through the ADC Compliance Division without prepayment of fees and costs or security therefor.¹

5. The Court CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

Dated this 20th day of September, 2013.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

¹ If either Defendant is no longer an ADC employee, the ADC Compliance Division must file the unserved Defendant's last known private mailing address under seal.